

## Brian Proposes Constitutional Amendment (May, 20 2009)

Washington,

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Right now, that question has no answer, but today, Congressman Brian Baird (D-WA-03) proposed a constitutional amendment to change that. Co-sponsored by Congressman Dana Rohrabacher

(R-CA-46), the amendment would provide a clear, constitutionally valid plan for maintaining the Continuity of Congress in the event of a terrorist attack.

"The unfortunate reality is that Congress is still vulnerable to attack, and yet we don't have a Constitutional mechanism for replacing House members quickly," said Baird. "I understand this isn't a pleasant or easy topic to discuss, but we cannot continue to bury our heads in the sand and hope that we remain safe. I don't know what could be more important for the future of our country than ensuring that we have a way to reinstate our government quickly and effectively."

Currently, when a House seat becomes vacant, it is filled by a special election; when a Senate seat becomes vacant, the governor typically appoints an individual to temporarily fill the vacancy. In 2005, Congress passed a measure directing states to hold special elections to fill seats within 49 days of a vacancy, something that rarely ever happens.

Currently, House rules allow for the Speaker of the House to set a "provisional quorum" in the event of a catastrophic circumstance. This could allow the Speaker to unilaterally lower the number of Members necessary to constitute the full House of Representatives. So, if only five Members survived an attack, any collection of 3 of them could pass legislation. Legal scholars have said this rule might be unconstitutional.

In 2003, Former Presidents Jimmy Carter and Gerald Ford served as honorary co-chairs of a non partisan commission designed to explore these issues. To date, few if any, issues raised in their

report have been addressed. Read  
its Findings Here

"We all hope that the provisions of this amendment never need to be implemented, but we cannot afford not to prepare," concluded Baird. "The potential of an attack is real, the possibility of a Constitutional crisis is real, yet Congress seems to pretend that nothing will ever happen. We can no longer remain unwilling to address the reality of the world in which we live; the time to act is now."

Under Baird's proposed Constitutional amendment:

- Upon being sworn into the House or Senate, members would provide a list of three designees one of whom would replace them in the event of their death, incapacitation or disappearance.
- If a significant number of members were killed, incapacitated, or disappeared, the Speaker of the House of Representatives, Vice President, or President Pro Tempore of the Senate would fill any vacancy from the list of the Representative's or Senator's designees.
- The designees would only serve in office until the Senators or Representatives regained capacity, were located, or another Member was elected to fill the vacancy.
- Congress would establish the criteria for determining whether a Senator or Representative is considered dead, incapacitated, or has disappeared.
- States would be required to hold special elections as soon as possible to elect replacements.

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